REMARKS

Claims 40-41, 49-52, 59-60 and 73-74 stand rejected under 35 U.S.C. § 103 as obvious over Cummings et al. (US Patent No. 6,309,639), in view of Tedder et. al (US Patent No. 5,834,425) and Coller et al. (US Patent No. 5,976,532). This ground of rejection is respectfully traversed.

The Examiner has criticized the declaration filed under 37 C.F.R. § 1.131 as failing to disclose a method for treating restenosis. The Examiner states that the declaration must establish possession of either the whole invention claimed, or a subset of the invention falling within the scope of the claims, citing *In re Tanczyn,* 146 USPQ 298 (CCPA 1976), and MPEP 715.02.

It is respectfully pointed out that the present claims are not only directed to restenosis, but also to methods for treating atherosclerotic lesions (claims 40, 41, 49, 50 and 60), and methods for treating atherosclerosis (claims 51, 52 and 59). The fact that applicants treat atherosclerosis or atherosclerotic lesions prior to or in conjunction with a vessel corrective technique does not convert these claims into methods for treating restenosis. As will be readily appreciated and understood by those skilled in the art, restenosis is a renarrowing or blockage of an artery at the site where a surgical procedure, such as an angioplasty or stent procedure, has already occurred. References directed to restenosis would only apply to present claim 73.

Applicants agree that the declaration does not address the issue of the use of a vessel corrective technique, but neither does the Cummings et al. reference which the declaration is intended to overcome. The Examiner states that the facts set out in the declaration should be sufficient to persuade one skilled in the art that the applicants possessed so much of the invention as shown in the references, citing *In re Schaub*, 190 USPQ 324 (CCPA 1976) and MPEP 715.03. Applicants concur with this statement, and believe that the declaration is adequate and sufficient to antedate the Cummings et al. disclosure which is silent on restenosis.

As a further point regarding the declaration, the Examiner notes that development of a knockout mouse occurred during the time period from November 16, 1992 to September 13, 1993, while applicants' experimental results were collected and analyzed on or about May 6, 1994. However, the declaration also makes clear that it took 8 months following the preparation of the mice for the mice to develop atherosclerosis since the mice are naturally resistant to

atherosclerosis. Thus, the time frame encompassed by the declaration is entirely reasonable and justified.

As noted above, the Cummings et al. reference discloses that PSGL-1 inhibitors can function to reduce leukocyte adherence and inflammation. However, Cummings et al. fails to disclose that either PSGL-1, or chimeric constructs comprising PSGL-1, can be used prior to, or in conjunction with, a surgical procedure.

The Tedder et al. reference relates to chimeric peptides or polypeptides that combine the ligand binding features of the domains of two different selectin molecules. The chimeric molecules of Tedder et al. are used to mediate leukocyte adhesion and function in the circulation system, and are described as being useful as anti-inflammatory compounds, rather than for treating atherosclerosis or restenosis. There is no disclosure in Tedder et al. that these chimeric molecules can be used to treat atherosclerosis or restenosis, or that these molecules can be used to reduce lesions or plaque.

The Examiner further states that Coller et al. teach the use of thrombolytic agents to prevent platelet aggregation and thrombosis which might otherwise occur as a result of angioplasty procedures. However, the present invention is directed to the prevention of atherosclerotic lesions in mammals, and not the prevention of a thrombosis formation. Accordingly, any combination of Coller et al. with the other references would fail to teach or suggest the invention defined by the present claims.

In view of the foregoing facts and reasons, the present application is now believed to overcome the remaining rejections, and to be in proper condition for allowance. Entry of the foregoing amendment is deemed appropriate at this time since it only serves to further limit the scope of the claims, and does not create any new issues thereby. Accordingly, reconsideration and withdrawal of the rejections, and favorable action on this application, is solicited. The Examiner is invited to contact the undersigned at the telephone number listed below to discuss any matter pertaining to this application.

Respectfully submitted,

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